(1) Supreme Court, U.S.
FILED

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OFFICE OF THE CLERK

NO.

IN THE
SUPREME COURT OF THE UNITED STATES

May 1, 2000

Johnny R. Everett Sr.

Petitioner,

V.

Department of Veterans' Affairs
Hampton VA, Durham VA, Richmond McQuire VA.
&
The United States Congress

Respondents.

On Petition For Writ Of Certiorari To The United States Court Of Appeals For The Fourth Circuit

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PETITION FOR WRIT OF CERTIORARI

==========

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Counsel of Record For
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Blount's Creek NC 27814
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64 pp

QUESTIONS PRESENTED FOR REVIEW

1. Why was the Plaintiff, an American War Veteran, after notifying the Courts several times of his third grade reading level and lack of legal experience, Denied a Court Appointed Attorney, to advise him of his legal rights, Under the 1st Amendment and USC Title 42, Section 2996?

2. Why was Plaintiff Denied a Court Order in order to obtain patient medical records from the Department of Veterans' Affairs under the Freedom of Information Act?

3. Why was Plaintiff Denied by the U.S. Assistant Attorney Debra J. Prilliman a Court Ordered meeting in order to obtain names and addresses for the purposes of witnesses and depositions under the rules of Discovery?

4. How could Congress under the Rules of Discovery Deny American Tax Payers the right to use the Institution of the National Practitioner's Database, and also allow the Federal Courts to continue the practice of Mooted and Unpublished cases, denying the American Public under the Freedom of Information Act of any chance to pursue crucial Information for Legal Facts?

5. How does the United States Congress provide the power to the Department of Veterans' Affairs, to confiscate an American Veterans' Service Connected Disability Check without any hearing, or trial, with the Veteran?

6. How does the United States Congress provide the power to the Department of Veterans' Affairs, to Judge, Regulate, and to manipulate the Medical care, Medical Records, Financial care, and Life and Death decisions in whatever way that benefits the Department of Veterans' Affairs?

7. How can the Federal Courts Justify denying a United States American Veteran Medical Information, that is provide for by law.
   While proceeding forward with a Federal Trial that denies the Veteran subpoenas and depositions, under rules of discovery. While maneuvering the courts so that the Veteran is not allowed legal counsel which is guaranteed under the First Amendment and USC Title 42 Section 2996 and denying him his day in court, while denying the cases to be public knowledge by Mooting and Ordering the opinions Unpublished?

8. What gives the Department of Veterans' Affairs the right to use a exam appointment to dismiss my case, while denying for more than ten years, in person and in writing, any knowledge of a test for silicone poisoning, other than to display the monopoly they hold over the American Veterans and to abuse their power and control, that was given to them by the United States Congress?
   While denying critical evidence to my suite and giving me a referral to seek outside medical treatment, but never actually sending me the fee-basis card or paperwork, in order for me to escape the past Guinea Pig Experimental practices of the VA doctors and VA hospitals.
   Fee-basis outpatient medical care was approved on October 30, 1998 by David L. Simel, MD and I have not yet received the fee-basis card or paperwork.

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JURISDICTION

On May 7, 1999
The United States District Court for the Eastern District of Virginia
In Civil Action 3:98cv754, Senior Judge Richard L. Williams
decision was, "Dismissed for Lack of Jurisdiction".

On June 11, 1999
The United States District Court for the Eastern District of Virginia
Johnny R. Everett Sr. (Plaintiff) filed In the United States Federal
Courts for the Eastern District of Virginia, Pursuant to the Federal
Rules of Civil Procedures, Rule 60 (b) (3).

On October 6, 1999
The United States Court of Appeals for the Fourth Circuit
I then Appealed this case to the United States Court of Appeals.
In Appeal # 99 -1849 CA- 98 -754 -3
Circuit Judges Niemeyer, Williams, and Michael.

On February 1, 2000
The United States Court of Appeals for the Fourth Circuit Ordered
in both petitions:

No. 99-1850 CA-98-576-3 3:98CV576
No. 99-1849 CA-98-754-3 3:98CV754

Appellant has filed a petition for rehearing.
The Court denies the petition for rehearing.

STATEMENT OF THE CASE

Crimes Against The People
Conspiracy-Monopoly-Fraud-Incompetence-Malpractice

The Plaintiff a United States American Veteran, is filing a Law Suit against the United States Congress and the Department of Veterans' Affairs for Conspiracy.

The United States Congress and the Department of Veterans' Affairs, willfully and with foresight, behind closed doors, in order to escape liability and damages, conspired to take Veterans' Constitutional Rights as American born citizens.

Title 38 United States Code ~ Section 511

> The Secretary [of Veterans Affairs] shall decide all questions of law and fact necessary to a decision by the Secretary under a law that affects the provision of benefits by the Secretary to veterans or the dependents or survivors of veterans.
> Subject to subsection (b), the decision of the Secretary as to any question shall be final and conclusive and may not be reviewed by any other official or by any court, whether by an action in the nature of a mandamus or otherwise.

Under Title 38 United States Code - Section 511
Congress and The Department of Veterans' Affairs Conspired to give The Department of Veterans' Affairs a Monopoly over the Health and Welfare of the Fighting Forces of America.

On May 7, 1999
In Civil Action 3:98cv754, Senior Judge Richard L. Williams decision was, "Dismissed for Lack of Jurisdiction".

On October 6, 1999
I then Appealed this case to the United States Court of Appeals.
In Appeal # 99 -1849 CA- 98 -754 -3
Circuit Judges Niemeyer, Williams, and Michael.
The Appeals Courts Decision is as follows:

> "We have reviewed the record and the District Court's opinion and find no reversible error. Accordingly, we affirm on the reasoning of the District Court.
> We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process."

Denying a United States Veteran his Constitutional Rights and Due Process.

On June 11, 1999
Johnny R. Everett Sr. (Plaintiff) filed In the United States Federal Courts for the Eastern District of Virginia, Pursuant to the Federal Rules of Civil Procedures, Rule 60 (b) (3), bringing Charges against the Department of Veterans' Affairs of Fraud and Tampering with evidence in a Federal Court.

The Department of Veterans' Affairs with Malice and Forethought, passed Medical Records to their representative, an Assistant United States Attorney Debra J. Prilliman, involving the United States Justice Department in Fraud and Tampering with Evidence.

On July 14, 1999
Senior Judge Richard L. Williams Ordered the Following:

> "The motion pursuant to Federal Rule of Civil Procedure 60 (b) (3) is DENIED. Because this Court is without jurisdiction to hear Plaintiff's claims, this Court must deny the motion for Relief from judgment or order pursuant to Rule 60 (b) (3)."

On February 1, 2000
The United States Court of Appeals for the Fourth Circuit Ordered in both petitions:

> Appellant has filed a petition for rehearing.
> The Court denies the petition for rehearing.

On January 13, 1999
Plaintiff filed a Release of Information with the Department of Veterans' Affairs requesting:
All of his Medical Records, this release form is one of many that the plaintiff has sent over the past twenty-plus years.

The information requested was solicited under Title 38, United States Code.

The Evidence shows that the Department of Veterans' Affairs committed an act of Fraud by not Complying with this law.

On November 28, 1997 and On March 4, 1998
Plaintiff was scheduled for Pulmonary Function Tests.

On both occasions appointments were kept and tests were completed.

However, Computer scheduling printouts received from the Department of Veterans' Affairs states; " appointments were canceled by patient."

The Assistant United States Attorney Representing the Department of Veterans' Affairs denied that the pulmonary test taken on November 28, 1997 existed.
The plaintiff then showed the United States Assistant Attorney the results of the March 4, 1998 Pulmonary Function Test, which refers in a comparison to the November 28, 1997 test.

The Department of Veterans' Affairs and the Assistant United States Attorney then within a few days forwarded the Plaintiff a copy of the November 28, 1997 Pulmonary Function test.

This also shows evidence that the Department of Veterans' Affairs was caught in the act, of committing an act of Fraud by not complying with Title 38 of United States Code.

On February 11, 1999
In the Federal Court Building in Richmond Virginia, Assistant United States Attorney Debra J. Prilliman handed to the plaintiff a folder of medical files.

Within these medical files was a Pulmonary Function Test.
The plaintiff soon discovered that the test of March 4, 1998 had been tampered with, the first and third pages of the test belonged to the plaintiff.
The Department of Veterans' Affairs had removed the second page, containing a graph, and had replaced it with a graph belonging to a lady named Maria Downs.
The graph of Mrs. Downs showed an increase of breathing capacity.
This Fraud by the Department of Veterans' Affairs made a great deal of difference in evidence.

This evidence shows that the Department of Veterans' Affairs committed an Act of fraud by Tampering with these medical records that were to be used as evidence in a Federal Court Case.

Due to a lack of effort by the United States Federal Courts to investigate or to Prosecute, and the Department of Veterans' Affairs involving an Assistant United States Attorney in an Unlawful Act of Fraud.
The plaintiff then decided to contact the following Government Agencies:

> The Justice Department Directed by Janet Reno, Refused to investigate, knowing one of her Assistant United States Attorneys, Debra J. Prilliman was involved.
>
> A United States Congressperson Eva Clayton, Has made no effort to bring charges against the Department of Veterans' Affairs for Crime's against the people.
>
> The Federal Bureau of Investigations refused to bring Charges against the Department of Veterans' Affairs, Stating lack of Jurisdiction to prosecute.
>
> The President of the United States, William J. Clinton As of this date of May 1, 2000 has made no effort to investigate the charges of Fraud and Tampering with Federal Evidence, his sworn duty as Commander and Chief.
>
> The Inspector General of the Department of Veterans' Affairs has made no effort to even acknowledge the plaintiff's charges.

I consider the lack of interest or action from these Government Institutions as an OBSTRUCTION OF JUSTICE.

In a Compensation Hearing with the Department of Veterans' Affairs on September 10, 1998 in Washington DC, I was lead to the understanding that the American Veterans' were being represented by legal practicing attorneys, from the organization of the Disabled American Veterans'.
After the Washington DC appeal, I learned they were not lawyers, but representatives, that's when, I made my decision to appeal to the United States Federal Courts for Justice.

Steven L. Cohn asked Mr. White to have me sign waivers for all new evidence, waivers, which I cannot comprehend the reason.

During this hearing Steven L. Cohn ruled out all charges or cases except for silicon poisoning, and a decision to be rendered at a later date, and this decision was made without considering all the evidence.

Assistant United States Attorney, Debra J. Prilliman noted in all of her briefs to the Federal Courts, on the behalf of the Department of Veterans' Affairs, asking for a Dismissal stating that Mr. Everett should look to the Department of Veterans' Affairs for Justice.
The Department of Veterans' Affairs within a week of the Decision of the United State's Court of Appeals, sent a letter to the plaintiff, swiftly displaying their Justice by stating:

> "Entitlement to compensation under
> 38 U.S.C. 1151 for additional disability as a result
> of Penile Implant is denied."

The Department of Veterans' Affairs refused my request for a release of information, requested under Title 38 of United States Code, requesting Product Information concerning the Prosthesis, manufacture and chemical make up.

The Department of Veterans' Affairs has refused to admit or confirm the chemical make-up of the prosthesis for the past ten-plus years.

I have contacted the FDA and they confirm that the Small-Carrion prosthesis is made of silicone.

I have contacted Dr. Douglas R. Shanklin, and he has confirmed that the Small-Carrion prosthesis is made of silicone.

A Veterans' Administration doctor confirmed that I have silicon exposure.

The Doctors before the operation, confirmed that the Small-Carrion prosthesis was made of silicone.

The Department of Veterans' Affairs says,
"PROVE IT!"
This is another Act of Fraud by the Department of Veterans' Affairs.

Only my novice determination has kept me on the path of Justice. When the Department of Veterans' Affairs decided to change the rules of law, into Fraud, I then decided that the only path to take was to document everything on paper and on tape and to tell the truth.

BEFORE THE FEDERAL COURTS

A lawyer for the Department of Veterans' Affairs, Roanoke Regional Office, by the name of Ben Hansel also made a fraudulent statement.
He made a written and a verbal agreement with the plaintiff, he would produce certain files, that the plaintiff had repeatedly asked for, the very next day, if the plaintiff would consider dropping the Federal Court Case against the Department of Veterans' Affairs. That was the last time I heard anything from Mr. Hansel.

DURING THE FEDERAL COURTS

Assistant United States Attorney Debra J. Prilliman, during the period of Discovery DENIED the plaintiff a list of government employees for the purposes of witnesses and depositions.
Mrs. Prilliman stated that she could not furnish a list, but that she would subpoena and set up depositions as I requested.
I felt, that since, I was not a threatening force, and that I only have a third grade reading level, with no legal advice, or background, I decided to trust a United States Assistant Attorney to do as she had promised.
With out any results.

The United States Federal Courts, for a years time more or less, ignored my request on two different occasions, for a legal document to ORDER the Department of Veterans' Affairs, under Title 38 of United States Code, to produce medical files as required by law.

I feel very sad, that I have had controversial correspondence with the Department of Veterans' Affairs.
Over these many, many years of begging and pleading with a Government agency, that I once thought was organized to help the American Veterans.

Years ago, I never would have believed anything but good about an organization that was started by my forefathers, to honor and to protect the men and women, that where sent to war to protect this great land.

I felt very honored to be an American, but my experience over the past twenty-plus years has brought me a great deal of heartache.
I came back from the battle of my life; just to endure the disappointment that I never thought would occur.
Threw a hardship, I Appealed to the Department of Veterans' Affairs for protection and medical help.

AND MY COUNTRY HAS FORSAKEN ME.

My Country used my body for experiments, of new and unproved medical products and procedures.

On May 4, 1977
I met with Doctor Frank Schuler and put my signature on a Hospital form for treatment.
I thought, the Doctor and I had an understanding that on May 5, 1977 that he would examine my bottom lip, which had a brown spot on it from smoking.
A small biopsy would be taken, and examined by the lab, and if cancer were determined, the surgeon from Portsmouth Naval Hospital would proceed.

If the lab determined, that the brown spot was not cancerous there would be no action taken.

When I woke up, I found that my lower face was all swollen up and that my bottom Lip had been surgically removed.
I was frightened because that indicated to me that I had cancer.

When the Doctor made his rounds for the afternoon, I asked him about the cancer of the lip, he explained that there was nothing to worry about, that the lab had found no cancer.

I was surprised and asked him why my face was swollen and bandages where on my bottom lip.

Dr. Schuler said he thought that I would appreciate the removal of the brown spot from my lip, when I removed the bandages, I learned that my entire bottom lip had been removed, which was not what had been agreed on.

From the very first day that I was admitted in the Hampton VA Hospital in Hampton Virginia, I have always told the Doctors that Asked me to sign my name on any form, that I could not read or comprehend what the forms were.

I believe that Dr. Schuler used me to enhance his knowledge and position.
I have Just been made aware of, that on the form I signed, which is a request for Administration of Anesthesia and for Performance of Operation and Other Procedures form, that it states:

6 - I understand that photographs and movies may be taken of this operation, and that they may be viewed by various personnel undergoing training or indoctrination at this or other facilities.
I consent to the taking of such pictures and observation of the operation by authorized personnel, subject to the following conditions:

a. The name of the patient and his/her family is not used to identify said pictures.
b. Said pictures be used only for purposes of medical study or research.

This action by Dr. Schuler is a clear case of actions for profit, as a monopoly over the Veterans and incompetence as a physician. Because of this procedure, by the Veterans Administration Hospital, for the past twenty-plus years I have had to live with the damage to my facial muscles, of not being able to smile, and I've spent years drooling all over myself.

These Procedures were done without my permission or consent and with great and unnecessary risk to the patient.

On October 5, 1988
In the Hampton VA Hospital in Hampton Virginia, I was scheduled an appointment to see Dr. Burger in building #37 in the spinal cord ward, for soreness of the neck.

As I approached the room Dr. Burger was reviewing my charts, he then reached into his right hand desk draw and removed a large syringe and he told me to stand still.
He then shot me in three different locations in the neck and shoulder.
I asked Dr. Burger what was in the needle that he had just shot me with, He said Mr. Everett I've just shot you with steroids to strengthen your neck.

I believed Dr. Burger for more than ten years.
At the Second Hearing, First Appeal with The Department of Veteran's Affairs in Roanoke Virginia, I was asked by the Judge of the Hearing to explain where I was shot and what was used and how many times I was shot.

After I returned home, I could not get the questioning about these shots off of my mind, who would know, better than the Veterans' Administration?

I then went back to check and review the medical files on that date and found that the substance was not steroids, but that they had shot me with 150 ml of Nuclear Waste.

The Department of Veteran's Affairs refuses to discuss this matter. Dr. Burger lied about a treatment and used a product that's not authorized by the FDA; this is a clear case of incompetence as a physician and mal-practice.

On December13, 1988

More than two months from the date that Dr. Burger gave me the first shots of Nuclear Waste, I was scheduled by Dr. Slater, who was my Primary Hospital Physician, too report to the x-ray Department.

The Scheduling Department handed me a form and asked me to go to the x-ray department.

When I arrived at the x-ray Department, they could not find an appointment scheduled for me.

I asked them to call Dr. Slater.

When the nurse returned she said, that, I was to go to room #21 in the basement.

When I arrived for my appointment, the nurse brought me a form to sign for the procedure.

As in all other times, I explained that I could not read or comprehend the contents of the form.

She laughed and said "nothing to worry about Mr. Everett, normal everyday Hospital routine."

Then the nurse used a large, long, syringe and shot a liquid into the blood stream.

Then I was told that I had to wait about forty minutes.

Then I was x-rayed completely, all over, from my fingers to my toes.

I had finally learned that the VA had used my body again for guinea pig experiments.

Twice, the first time with 150 ml, and the second time with 230 ml, of Nuclear Waste.

The x-rays from 12-13-88 showed "hot spots" from the 10-05-88 shots, these hot spots were found in the Jaw and in the spinal areas.

This Act by the Veterans Administration, lying to a patient about what type of drugs or treatments they are using.

Using Nuclear Waste in the blood stream that the FDA had not approved then and still even today.

With out neither patient knowledge nor compensation is a crime within its self.

More than twenty years of paying for a Government Medical Experiment / A Crime Against The People.

On October 17, 1989
A Veterans' Administration Hospital Doctor, at the Hampton VA hospital, in Hampton Virginia, by the name of Dr. Netto acting as training doctor and a Portsmouth Navy Surgeon from the Portsmouth Naval Hospital whom was in training, performed an experimental silicone organ prosthesis surgery on the plaintiff.

The plaintiff was not notified before the operation of the failure rate of the prosthesis, or of the possible future complications, like severe joint pain, memory loss, hair loss, skin rashes, silicone migration threw out the organs in the body, or lung conditions ect...

The plaintiff was not notified that the Hospital did not have the correct size silicone prosthesis required.

Plaintiff was not notified that the Food and Drug Administration have, never authorized this silicone prosthesis.
Today, it's still not authorized by the Food and Drug Administration and it is classed as an Experimental Device.

In the original operation report it reads as follows and I quote:

> "The fit appeared to be a 1.1 x 14.5cm.
> None of the Small-Carrion prosthesis of this size were in stock.
> A 1.1 x 15.8cm was trimmed by 1cm and this gave a good fit.
> There were no sharp edges on the proximal end.
> The prosthesis was trimmed on the proximal side.
> Each of the prosthesis and the dilators were washed in triple antibiotic solution prior to insertion.
> The corporotomy was closed with a 2-0 Vicryl continuous suture.
> Attention was turned to the left side and the same procedure performed.

A 1.1cm x 15.8cm was again trimmed to fit the prosthesis into the penis with appropriate rigidity and extension of the prosthesis to the mid-glans. A 13.3cm prosthesis on both sides was noted to be much too short."

The surgeon's incompetence and mal-practice in this operation put the plaintiff at medical risk.

The surgeons by trimming the silicone rods, altering them in which case relieved the manufacturer, Mentor Urology in Minneapolis Minnesota from any legal responsibility or liability, leaving any and all responsibility on the two doctors and the Department of Veterans' Affairs.

The Department of Veterans' Affairs have been informed on many occasions that the silicone prosthesis has been in questionable condition and deteriorating within my body.

The Department of Veterans' Affairs has never accepted the responsibility for the silicone implant, and have denied knowing of any test for silicone poisoning, and refused to acknowledge or treat multiple symptoms.

In a Compensation and Pension Exam, Dr. Evan's in the Hampton Veterans' Administration Hospital stated in his Exam report, and I quote:

" Penis implant in place.
Not Working Well."

Also on a Medical Certificate on August 26, 1992 from the Department of Veterans' Affairs Hospital in Hampton Virginia, the Certificate states:

" Penile prosthesis ?
Causing problems."

Radiology Diagnostic Report from the Veterans Administration Medical Center Richmond, Virginia On November 4, 1997:

" Has H/O silicon Exposure."

On October 10, 1996
I received a letter from Douglas R. Shanklin, M.D., F.R.S.M., and A Professor of Pathology and of Obstetrics and Gynecology at the University Of Tennessee in Memphis.
Dr. Shanklin's lab reports and letter stated And I quote:

"In your case a total of 16
auto-antibody Peptides were
found, a very high number."

I was told that I had silicone though out my body, and needed additional test run every six months.
The VA refused my request, saying that they knew of no test for silicone.
My test were denied, I believe, because of the pursuit of medical knowledge then and now.
Also to this day they are not treating me so that they may get the results of the damages that, continues on at my expense.

Just as the Government did, in 1932, with lying to the blacks, by having a cure of penicillin for syphilis, and would not use it in order to obtain medical knowledge through to their deaths.

On December 24, 1997
The day that Laser surgery was done to my nose.
A procedure that I questioned the surgeon, Dr. Garrett of Dermatology, to make sure of his experience.
To be satisfied of his qualifications and that he and he alone would be doing the surgery on my nose.

I also asked Dr. Garrett to have a biopsy taken of the tumors on both sides of my nose.
When I arrived, a young women doctor greeted me, and started with a number of syringes, she took the first syringe and bent the needle upwards and began to deaden my nose.
I could not help but notice, in the hand that the needle was in, was shaking so bad that I said to her, you must have had a bad night last night, and she said why?
Then I said, you are so nervous you can't hold the needle still.
Then she used her other hand to steady the needle.
When she finished they asked me to lay on the table, and put a pair of clear white glasses over my eyes, then she began to lay clean white towels all over my face, except for my nose.
The surgeon came in the room, and told the women doctor, that the towels had to be wet before she applied them to my face.
The doctor stood on the left side, and the women doctor, what I believe to be an intern, stood on the right side of me.
The surgeon began telling the intern the fundamentals of a Co2 laser.
How to cut it on and off, how to hold it, and how to cut it up and down.
Then the surgeon cut the laser on and began the process.
I thought that my nose was numb until that laser hit my skin, my skin began to burn and smoke.
I had to stop breathing through my nose and start breathing through my mouth.
There was excruciating pain and the smoke kept me from breathing normally.
Then the doctor reached a point about half way from the top of my nose to the bottom, and took a pair of scissors, and cut the lower left side of my nose, where the tumors were off.
I thought, That He was doing both sides of the nose from the same position, and then he began the right side.
I didn't realize that the intern was now holding the laser.
She said that she had to turn it up, because it was not cutting the area.
She turned the laser up, and the surgeon yelling to stop, his voice left my left side and went to my right side.

I presumed it was the surgeon that was examining my nose, he said to give him the scissors, and he cut the lower right side of my nose where the tumors were off.
Then the surgeon went back to my left side.
The intern proceeded on the right side of my nose.
With instructions from the surgeon, after the right side was complete, the surgeon said he had to cut some more off the left side to match the right side.
I told him that before he went any further, I needed something for the pain, it was more than I could stand.
They began to shoot solution into the nose again, and then the surgeon started on the left side.
Once again and after a few minutes, he said I am not going any further and he stopped.
On the way out I stopped at the receptionist, to pick up my VA card.
I asked has the biopsy gone to the lab?
She replied "everything had been taken care of Mr. Everett, Have a nice day!"
When, I was released, I realized how good it looked; it had been cut too deep on both sides.
The right side had a hole in it, but not clean through, but it was very obvious that it wasn't the same as the other side.
Devastating pain and distortion of the facial features, and the only advantage was to the doctors of the Veterans' Administration.

On February 26, 1998
I then decided to go to an outside plastic surgeon at Coastal ENT and Facial Surgery with Dr. William J Hall Jr. a well-known facial surgeon for the ears, nose, and throat.
After my second appointment I was scheduled for surgery.
Dr. Hall recommended a grinding procedure called Dermabrasion of the nose, with a cost of $1000.00.
The question was asked that if it's a sanding procedure and there's a hole on the right side of the nose where the laser cut too deep, how could this be fixed?

Dr. Hall said that after the Dermabrasion procedure was done, and about three months of healing time, he could cut an opening under the hole and fill it in with a putty type substance, that would raise the hole up so that it would look normal.
I canceled the surgery, because I needed a total amount of cost for the total job to repair the damages.
Dr. Halls office said they couldn't guarantee any total amount because they were not sure of how much time and work it would take.
They estimated a little under another thousand dollars but would not guarantee it.
Saying that it could cost more.

I am of the opinion that, if; solely Dr. Garrett as promised did this laser surgery.

If the VA had not once again used me as a guinea pig to train their interns and learning doctors.

If the same types of damages had not been done over, and over, in the past twenty-plus years.

If the VA in the first hearing, at the Roanoke Regional Office, that I was not invited to, had any justice involved.

If the VA in the second hearing, in Roanoke Va., that I attended with enough evidence to prove my case, and the VA made the decision to disallow the evidence.

In the third hearing in Washington DC.
If Mr. Cohn had considered all of the evidence, with exam notes that they would not release to me, and books of hundreds of sheets of evidence, and videotapes, and also audio tapes.

Now with, what I thought was the last hearing.

Over the last ten years I have cried with pain, and begged the VA to treat me, for silicone poisoning.

CONCLUSION

The Veterans' Administration has hid, and has refused, to release crucial files of my condition.
The Congress of the United States of America has given a Monopoly to the Department of Veterans' Affairs, which relieves the Department of Veterans' Affairs of Judgment from any Government Agencies, and allowing the Department of Veterans' Affairs Supreme Power over all American Veterans and their survivors.

Without any hearings or trials my Country confiscated many months of Service Connected Disability checks.
When, I refuse their demands, they then confiscated my medical supplies, eight months of Insulin and Heart medication, prescriptions that had already been written.

With all the evidence available, my Country should have settled these charges a long time ago, but they chose to ignore me, and use deceit.
I am now in twenty-plus years of negotiations, with a lack of food and medical care.
I have been denied my Constitutional Rights as an American Born Citizen.

I am not an educated man and I cannot read or comprehend most of the legal documents I receive in the mail, but that doesn't excuse the Courts for denying me Justice.

I have done my very best to obtain Legal Advice for a very controversial case.
I have not been able to locate a competent attorney.
The Congress of the United States have created a Government Agency that protects Medical Doctors and Medical Facilities, that have been found guilty of sexual perversions, incompetence, mal-practice and mis-conduct, at the tax payers expense.

This Agency The National Practitioners' Database which is not accessible to the public, along with the practice of Mooted and Unpublished Court cases, have deprived plaintiffs access to critical, Constitutionally provided and United States Code provided, Discovery of evidence.

The videotapes in Evidence shows a history of many years of guinea pig experiments, on the American public, conducted by the Government of the United States that has killed thousands without any consent or knowledge thereof.

In my original Civil Action in the Federal Courts, Fourth Circuit, I was denied crucial information for Discovery by the Assistant U.S. Attorney Debra J. Prilliman including names and addresses in order to contact witnesses for depositions or affidavits.
On April 16, 1999 Richard L. Williams Senior District Court Judge Ordered Assistant U.S. Attorney Debra J. Prilliman to make contact with the plaintiff by April 20, 1999 in order to resolve this matter. (App. 11)
On April 20, 1999 the Plaintiff realizing he only had five working days before the trial date on April 28, 1999, and with no witnesses for depositions or affidavits and without Medical Records requested from the Department of Veterans' Affairs, plaintiff decided to petition the Courts for a dismissal without prejudice in order to pursue the matter at a later date.
Even after a Court Order to do so, Mrs. Prilliman couldn't find the time to contact or meet with the plaintiff.
On April 21, 1999 the plaintiff received two packages through Fed-Ex, from Assistant U.S. Attorney Debra J. Prilliman, old medical records that were unrelated to the perimeters of the plaintiffs charges against the Department of Veterans' Affairs.

I am asking the Supreme court to appoint to me a competent attorney for legal advice under my First Amendment Rights and also according to U.S. Code: Title 42, Section 2996.

I am now asking the Supreme Court to accept this suite and to give an American Veteran Final Justice.

I'm an American Veteran Appealing to the Supreme Court of the United States of America, and to all Court Justices.

I am asking the Supreme Court to Award me Damages of $25,000,000.00 Twelve Million Dollars.

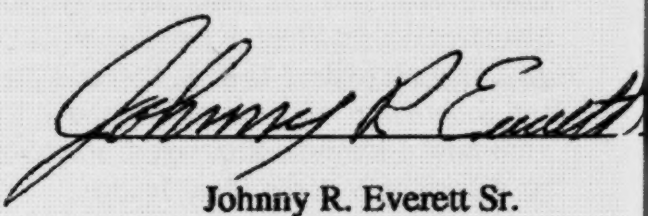
If the Supreme Court Justices believe, that, my fight for Justice is Sincere and Just, and that I have been unnecessarily mistreated.

If the Supreme Court Justices believe, that, The Department of Veterans' Affairs have not been fair in the treatment of this Veteran.
If Punitive Damage Awards are justified, then I leave this decision in the hands of the Supreme Court Justices along with the decision of the proper amount.

Pursuant to the Federal Rules of Civil Procedure Rule 60 (b) (3) states:

> Fraud (whether heretofore denominated intrinsic or extrinsic) misrepresentation, or other misconduct of an adverse party;

Since the Federal Courts have chosen to ignore these charges, and take no action.
I'm requesting The Supreme Court to Investigate these charges, and to Subpoena Testimony from United States Assistant Attorney Debra J. Prilliman.
Who with or without knowledge of the Fraud, Became an accessory.
Mrs. Prilliman was council, for The Department of Veterans' Affairs.

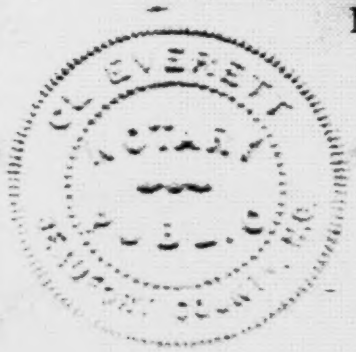


Johnny R. Everett Sr.

State of North Carolina
City of Blount's Creek
To wit the forgoing instrument bearing the
Date of May 1st, 2000 was
Acknowledged before me this 1st day
of May, 2000 by :

C J Emmett
Notary

March 7, 2005
My Commission Expires



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App. 1

DEPARTMENT OF VETERANS AFFAIRS
Medical Center
Hampton VA 23667

October 27, 1997

In Reply Refer to: 590/112
SSN: 246 40 5684

Mr. Johnny R. Everett Sr.

Dear Mr. Everett:

We are writing to you on behalf of the White House, in response to your letter dated September 5, 1997, concerning health issues that you feel may be related to implantation of a silicone penile prosthesis in 1989.

We have reviewed the packet of material you sent to the White House, and reviewed our medical record of your care. You received treatment at VAMC, Hampton until August 1992. A review of our records reveals that Dr. Netto, Staff Urologist, gave you the specific information you requested about the prosthesis on September 4, 1996. It was manufactured by Mentor Heyer-Schulte Products of Goleta, CA, and the device is called Small-Carrion Penile Prosthesis. On July 29, 1991, When seen by Dr. Netto, he assured you that we did not have any knowledge of any "adverse reactions" and you were encouraged to bring in what information you had, and Dr. Netto would contact the manufacturer for verification. Apparently you never followed through with Dr. Netto's request. On your last visit August 26, 1992, you stated that you did not want the penile implant removed.

From 1989 and even until today, we know of no definitive diagnostic tests to be done that would support your claim of "Poisoning by silicone disease". From your letter, it seems that the other "VA Medical Centers, Virginia Health Department, three

medical school and two hospitals" that you have asked do not know of such a test.
We are not "purposely denying" these test as you claim. To our knowledge, they do not exist.

We are concerned when any veteran feels that his/her care is less than optimum, and wish to assure you that we would be pleased to provide a full evaluation of your symptoms and any diagnostic testing your treating physician feels is appropriate.

If we can be of further assistance, please do not hesitate to contact Dr. Netto, Staff Urologist or Dr. Ali Farpour, Acting Director, Surgical Services at (757) 722-9961, ext. 3620.

Sincerely,

TIMOTHY MAY
Acting Executive Vice President

App. 3

DEPARTMENT OF VERERANS AFFAIRS
Medical Center
508 Fulton Street
Durham NC 27705

October 30,1998

In Reply Refer To: 558/11C

Mr. Johnny R. Everett Sr.
Route 2 286E Lot 6
Blounts Creek, North Carolina 27814

Dear Mr. Everett;

You have been approved for fee-basis outpatient medical care for treatment of your service connected skin condition. You will be entitled to treatment from a private physician that is close to your home for the disability listed on the fee-basis card. Any treatment that you receive from a private physician other than what is listed on the card will be at your own expense. You will receive a fee-basis identification card from the Winston-Salem Fee-Basis Service Office that will provide you with additional information about your fee-basis card.

If you have questions about your card, call Ms. Ernestine Bason at (919) 286-0411, extension 6193. If you change your decision not to seek care at this facility call our Telephone Triage Office at 1-888-878-6890 for an appointment.

Sincerely,

DAVID L. SIMEL, MD
Associate Chief of Staff for Ambulatory Care Service

SUPPLEMENTAL STATEMENT OF THE CASE

10/14/99

DEPARTMENT OF VETERANS AFFAIRS
ROANOKE REGIONAL OFFICE

Johnny R. Everett Sr.
VA FILE NUMBER: 16 988 528
SOCIAL SECURITY NR: 246-40-5684

ISSUE:

Entitlement to compensation under 38 U.S.C. 1151 for additional disability as a result of penile implant.

EVIDENCE:

- Medical records from the Hampton VA Medical Center for the period 10/16/89 to 10/19/89.
- The claimant failed to report for a VA examination scheduled at the Richmond VA Medical Center in July 1999. Evidence Expected from this examination which might have been material to the outcome of this claim could not be considered.
- Review of claims file to include multiple records, audio-tapes And videotapes submitted by the veteran during the course of his appeal.

ADJUDICATIVE ACTIONS:

9/10/98	The appeal was remanded by the Board of Veterans' Appeals for additional medical evidence And a VA examination
10/14/99	Claim considered based on all the evidence of record.

PERTINENT LAWS; REGULATIONS; RATING SCHEDULED PROVISIONS:

Unless otherwise indicated, the symbol " ** " denotes a section from title 38 of the Code of Federal Regulations, Pensions, Bonuses and Veterans' Relief. Title 38 contains the regulations of the Department of Veterans Affairs' which govern entitlement to all veterans benefits.

**3.655 Failure to report for Department of Veterans Affairs examination.

(A) General. When entitlement to continued entitlement to a benefit cannot be established or confirmed without a current VA examination or reexamination and a claimant, without good cause, fails to report for such examination, or reexamination, action shall be taken in accordance with paragraph (b) or (c) of this section as appropriate. Examples of good cause include, but are not limited to, the illness or hospitalization of the claimant, death of an immediate family member, etc. For purposes of this section, the terms "examination" and "reexamination" include periods of hospital observation when required by VA.

(B) Original or reopened claim, or claim for increase. When a claimant fails to report for an examination scheduled in conjunction with an original compensation claim, the claim shall be rated based on the evidence of record. When the examination was scheduled in conjunction with any other original claim, a reopened claim for a benefit which was previously disallowed, or a claim for increase, the claim shall be denied.

(c) Running award.

(1) When a claimant fails to report for a reexamination and the issue is continuing entitlement, VA shall issue a predetermination notice advising the payee that payment for the disability or disabilities for which the reexamination was scheduled will be discontinued or, if minimum evaluation is established in part 4 of this title or there is an evaluation protected under **3.951 (B) of this part, reduced to the evaluation.
Such notice shall also include the prospective date of discontinuance or reduction, the reason therefor and a statement of the claimant's procedural and appellate rights. The claimant shall be allowed 60 days to indicate his or her willingness to report for a reexamination or to present evidence that payment for the disability or disabilities for which the reexamination was scheduled should not be discontinued or reduced.

(2) If there is no response within 60 days , or if the evidence submitted does not establish continued entitlement, payment for such disability or disabilities shall be discontinued or reduced as of the date indicated in the predetermination notice or the date of last payment, whichever is later.

(3) If notice is received that the claimant is willing to report for a reexamination before payment has been discontinued or reduced, action to adjust payment shall be deferred. The reexamination shall be rescheduled and the claimant notified that failure to report for the rescheduled examination shall be cause for immediate discontinuance or reduction of payment. When a claimant fails to report for such rescheduled examination, payment shall be reduced or discontinued

as of the date of last payment and shall not be further adjusted until a VA examination has been conducted and the report reviewed.

4) If within 30 days of a predetermination notice issued under paragraph (c) (1) of this section the claimant request a hearing, action to adjust payment shall be deferred as set forth in **3.105 (h)(1) of this part. If a hearing is requested more than 30 days after such predetermination notice but before the proposed date of discontinuance or reduction, a hearing shall be scheduled, but payment shall nevertheless be discontinued or reduced as of the date proposed in the predetermination notice or date of last payment, whichever is later, unless information is presented which warrants a different determination. When the claimant has also expressed willingness to report for an examination, however, the provisions of paragraph (c) (3) of this section shall apply. (Authority: 38 U.S.C. 501 (a))

DECISION:

Entitlement to compensation under 38 U.S.C. 1151 for additional disability as a result of penile implant is denied.

REASONS AND BASES:

Compensation is payable for any disability which results from VA hospitalization, medical or surgical treatment, or vocational rehabilitation, or as a result of having submitted to a VA medical examination. For medical services, the evidence must show that fault on VA's part or an event not reasonably foreseeable proximately caused the veteran's additional disability. Merely

showing that a veteran has an additional disability is not sufficient to establish causation. Entitlement to compensation for additional disability as a result of penile implant is denied because the evidence fails to establish that VA medical or educational services were the proximate cause of additional disability.

This issue is currently on remand from the Board of Veterans' Appeals. The veteran and his representative have contended that he developed additional disability as a result of silicone leakage from defective penile prosthesis installed by the Department of Veterans' Affairs. This additional disability was allegedly manifested by systemic problems including joint pain and swelling, low red blood cell count, headaches and dizziness, low grade fevers, night sweats, hair loss, rashes, shortness of breath and chest pain, numbness of the face and head, fatigue and memory loss.

On August 16, 1989, the veteran was admitted to the Hampton VA Medical Center with a 12 to 15 year history of impotence which was thought to be secondary to diabetes and hypertension with corresponding neurovascular disease. On the second day of hospitalization, he underwent placement of a Small-Carrion penile prosthesis without complications. He had a Foley in-dwelling for 24 hours. Upon its removal, he voided without difficulty. His dressing remained intact for 48 hours and was removed on the second postoperative day. His incision was intact with minimal edema or erythema. The veteran did experience a low-grade fever for the initial 12 hours but this subsided and subsequently remained normal. At the time of his discharge from the hospital on October 19, 1989, the veteran was to his baseline in ambulating and was also having normal bowel function and was tolerating a regular diet.

Associated with the veteran's claims file are numerous medical records compiled subsequent to October 1989. They noted

recurrent, multiple complaints which the veteran had attributed to silicone poisoning from a leaking penile implant. Various diagnoses were given to include arthritis of multiple joints with undetermined cause, diabetes, hypertension and unstable angina.

In November 1995, Dr. Douglas R. Shanklin noted that blood test had been devised to demonstrate when individuals with silicone implants had developed and auto-immune disorder. In a subsequent report dated October 1996, the physician noted that laboratory testing was strongly indicative that the veteran's penile implant had produced both local and systemic disease.

In accordance with the remand from the Board of Veteran's Appeals, the veteran was scheduled for a VA examination to ascertain whether it was likely that a chronic systemic disorder resulted from his October 1989 penile implant and, if so, whether such disorder was certain to result from or was intended to result from that procedure. Unfortunately, the veteran failed to report for this examination.

In the absence of competent medical evidence establishing that the veteran has a chronic disability which was the unintended result of the October 1989 penile implant procedure, entitlement to compensation is denied.

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA

Richmond Division

JOHNNY R. EVERETT SR.)	Filed
)	April 16, 1999
Plaintiff,)	
)	Civil Action Number
V.)	3:98CV576
)	
DEPARTMENT OF VETERANS')	
AFFAIRS,)	
)	
Defendants.)	

ORDER

This matter is before the Court on several documents filed by the Pro se plaintiff, Mr. Everett. First, Plaintiff filed a pleading entitled "In the United States District Court for Purposes of a Brief Summary" filed March 30, 1999 which contains a request that the Court appoint counsel.

Counsel need not be appointed in a civil case unless the case presents very complex issues or exceptional circumstances. Whisenant v. Yuam, 739 F.2d 60, 163 (4th Cir. 1984); Cook v. Bounds, 518 F.2d 779, 780 (4th Cir. 1975). In fact, the Court cannot actually appoint counsel in civil cases, but can only request an attorney to represent the person unable to afford counsel. This

action presents no complex issues or exceptional circumstances. Accordingly, the Court DEN IES the plaintiff's request for counsel.

In that same document filed on March 30, and in several other documents recently filed, plaintiff makes numerous statements alleging that the United States Attorney's Office has not complied with certain request that he has made with regard to documents, witnesses, and depositions. The Court hereby DIRECTS the United States Attorney's Office to attempt to communicate with the plaintiff immediately and to file a response to the plaintiff's numerous requests no later than Tuesday, April 20, 1999, so that it is clear to the Court precisely what matters are unresolved.

Plaintiff also asks the Court, in a document entitled "Brief of Fact to be filed in the Federal Courts" filed on March 29, 1999, to continue this case. The Court DENIES this motion, but will reconsider it if the parties file a joint motion for a continuance that demonstrates that there is good cause to continue this matter.

Plaintiff also asks the Court, in a document entitled "This Brief to be Filed in the Federal Courts System," filed on February 26, 1999, to order a " test of Silicone Poisoning to be done by the CDC in Washington, D.C." In this same document, the plaintiff asks the Court to order an investigation by the Department of Justice. These request are also DENIED as this Court is without jurisdiction to order such.

Finally, in his latest pleading, entitled "Amendments to Brief Dated February 24, 1999 and February 8, 1999 on Subpoenas and Depositions," filed April 13, 1999, plaintiff asks this Court to

advise him with regard to video and audio tapes. It is not appropriate for the Court to advise the plaintiff on how to proceed. Moreover, there is no statutory authority authorizing the Court to underwrite or waive plaintiff's general discovery costs. See Badman v. Stark, 139 F.R.D. 601, 604 (E.D. Pa. 1991); Tedder v. Odel, 890 F.2d 210, 211 (9th Cir. 1989). The Court's Official Court Reporter will be present and will record stenographically all that takes place in the courtroom, during trial or any hearings that are held.

It is so ORDERED.

Let the Clerk send a copy of this Order to all counsel of record and to the plaintiff.

APR 16, 1999
DATE

Richard L. Williams
SENIOR UNITED STATES
DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA

Richmond Division

JOHNNY R. EVERETT SR.	)	Filed
	)	April 26, 1999
Plaintiff,	)	
	)	
V.	)	
	)	Civ. Action No.
DEPARTMENT OF VETERANS' AFFAIRS,	)	3:98CV576
	)	
Defendant.	)	

DISMISSAL ORDER

Upon agreement of the parties that this case should be dismissed, without prejudice, it is hereby

ORDERED, pursuant to Fed. R. Civ. P 41 (a) that this action is hereby DISMISSED WITHOUT PREJUDICE, with each party to bear its own costs and attorneys fees.

Richard L. Williams
UNITED STATES DISTRICT JUDGE

ENTERED: APR 26, 1999
RECEIVED APRIL 23, 1999

UNITED STATES DISTRICT COURT

---------Eastern----------DISTRICT OF----------Virginia------
Richmond Division

JOHNNY R. EVERETT, SR.

Plaintiff,

Filed
April 26, 1999

v.

JUDGEMENT IN A CIVIL CASE
Case number: 3:98CV576

DEPARTMENT OF VETERANS' AFFAIRS,

Defendants.

☐ Jury Verdict. This action came before the Court for a trial by jury. The issues have been tried and the jury has rendered its verdict.

☒ Decision by Court. The issues have been tried or heard and a decision has been rendered.

IT IS ORDERED AND ADJUDGED that the action is hereby DISMISSED WITHOUT PREJUDICE, with each party to bear its own costs and attorneys fees.

April 26,1999
Date

Norman H. Meyer, Jr.
Clerk

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA

Richmond Division

JOHNNY R. EVERETT SR.	)	Filed
	)	May 3, 1999
Plaintiff,	)	
	)	
V.	)	Civil Action Number
	)	3:98CV576
	)	
DEPARTMENT OF VETERANS' AFFAIRS,	)	
	)	
	)	
Defendant.	)	

ORDER

This matter is before this Court on the plaintiff's motion to dismiss pursuant to Rule 41. The Court notes that the defendant filed a copy of the plaintiff's motion along with its response on April 23. Thereafter, the Court granted the motion and ordered that the case was dismissed without prejudice. Accordingly, this motion is MOOT pursuant to the Order entered on April 26, 1999.

It is so ORDERED.

Let the Clerk send a copy of this Order to all counsel of record and to the plaintiff.

May 3, 1999
Date

Richard L. Williams
SENIOR UNITED STATES
DISTRICT JUDGE

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 99-1850

JOHNNY R. EVERETT SR.,

Plaintiff – Appellant,

Versus

DEPARTMENT OF VETERANS' AFFAIRS,

Defendant – Appellee.

Appeal from the United States District Court for the Eastern District of Virginia, at Richmond. Richard L. Williams, Senior District Judge. (CA-98-576-3)

Submitted: September 30, 1999 Decided: October 5, 1999

Before NIEMEYER, WILLIAMS, and MICHAEL, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Johnny R. Everett Sr. Appellant Pro Se. Debra Jean Prilliman, Assistant United States Attorney, Richmond, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit. See Local Rule 36 (c) .

PER CURIAM:

Johnny R. Everett Sr. appeals the district court's order dismissing his civil action. We have reviewed the record and the district court's opinion and find no reversible error. Accordingly, we affirm on the reasoning of the district court. See Everett v. Department of Veterans' Affairs, No. CA-98-576-3 (E.D. Va. Apr. 26, 1999). We deny Everett's motion to stay and dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

AFFIRMED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

FILED
February 1, 2000

No. 99-1850
CA-98-576-3

JOHNNY R. EVERETT SR.

Plaintiff – Appellant

V.

DEPARTMENT OF VETERANS AFFAIRS

Defendant – Appellee

ORDER

Appellant has filed a petition for rehearing.

The Court denies the petition for rehearing.

For the Court,

/s/ Patricia S. Connor
CLERK

App. 19

UNITED STATES COURT FOR APPEALS
FOR THE FOURTH CIRCUIT

Filed
February 9, 2000

No. 99 – 1850
CA-98-576-3

Everett V. Dept. Veterans' Affrs.

==========

MANDATE

==========

The judgment of this court dated 10/6/99 takes effect today.

PATRICIA S. CONNOR
CLERK

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA

Richmond Division

JOHNNY R. EVERETT SR.,	)	Filed
	)	May 7, 1999
Plaintiff,	)	
V.	)	Civil Action
	)	Number:
DEPARTMENT OF VETERANS' AFFAIRS,	)	3:98CV754
	)	
Defendant.	)	

ORDER

This matter is before the Court on the defendant's motion to dismiss and the plaintiff's motion to dismiss without prejudice. A voluntary dismissal prior to a defendant's filing of an answer or a motion for summary judgment is not explicitly barred by Federal Rule of Civil Procedure 41 (a). Defendant has filed neither is this case. However, the defendant has filed a motion to dismiss based on this Court's lack of jurisdiction over this matter, which this Court must consider.

Plaintiff seeks review of the September 10, 1998 decision of the Board of Veterans' Appeals denying his claim for benefits. However, review of the Board's decision in this Court is barred by Title 38, United States Code, Section 511, which provides in pertinent part:

> The Secretary [of Veterans Affairs] shall decide all questions of law and fact necessary to a decision by the Secretary under a law that affects the provision of benefits by the Secretary to veterans.... Subject to subsection (b),

> the decision of the Secretary as to any question shall be final and conclusive and may not be reviewed by any other official or by any court, whether by an action in the nature of a mandamus or otherwise.

The exceptions to the preclusion of district court review set forth at Title 38, Section 511 (b) do not apply to the claims brought by the plaintiff herein.
Further, the statute does provide for review of decisions by the Board of Veterans' Appeals,Under Title 38, United States Code, Section 7252, "[t] he Court of Veterans Appeals shall have exclusive jurisdiction to review decisions of the Board of Veterans' Appeals." The decisions of the Court of Veterans Appeals may be appealed to the United States District Court for the Federal Circuit, pursuant to Title 38, United States Code, Section 7292.
For these reasons, this Court is without jurisdiction to hear plaintiff's claims and the defendant's motion is GRANTED. Accordingly, this matter is DISMISSED FOR LACK OF JURISDICTION. Plaintiff's motion for voluntary dismissal is therefore MOOT.

Plaintiff is advised that he has the right to appeal the decision of the Court. Should he wish to do so, written notice of appeal must be filed with the Clerk of the Court within sixty (60) days of the date of entry hereof. Failure to file a timely notice of appeal may result in the loss of the right to appeal.

> It is so ORDERED.
> Let the Clerk send a copy of this Order to all counsel of Record and to the plaintiff.

May 7, 1999
Date

Richard L. Williams
SENIOR UNITED STATES
DISTRICT JUDGE

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA

Richmond Division

JOHNNY R. EVERETT SR.

FILED
MAY 7,1999

JUDGMENT IN A CIVIL CASE

V.

DEPARTMENT OF VETERAN AFFAIRS

CASE NUMBER: 3:98CV754

☐ Jury Verdict. This action came before the Court for A trial by jury. The issues have been tried and the Jury has rendered its verdict.

☒ Decision by Court. This action came xxxxxxxxxxx Before the Court. xxxxxxxxxxxxxxxxx and a Decision has been rendered.

IT IS ORDERED AND ADJUDGED

The defendant's motion to dismiss is granted; this matter is dismissed for lack of jurisdiction. Plaintiff's motion for voluntary dismissal is therefore moot.

May 7, 1999
Date

NORMAN H. MEYER, JR.
Clerk

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA

Richmond Division

JOHNNY R. EVERETT SR.,)	Filed
)	July 14, 1999
Plaintiff,)	
V.)	Civil Action Number
)	3:98CV754
DEPARTMENT OF VETERANS')	
AFFAIRS,)	
)	
Defendant.)	

ORDER

By Order entered on May 7, 1999, the Court dismissed this matter for lack of jurisdiction.
Plaintiff was advised of his right to appeal. Since that date, the plaintiff has filed four documents.
Two are entitled "Appeal," one is entitled "Brief of Facts to be entered into the Files of Civil Action # 3:98cv754," and the latest appears to be a motion pursuant to Federal Rule of Civil Procedure 60 (b) (3).

The motion Pursuant to Federal Rule of Civil Procedure 60 (b) (3) is DENIED. Because this Court is without jurisdiction to hear plaintiff's claims, this Court must deny the motion for relief from judgment or order pursuant to Rule 60 (b) (3).

The "Brief of Facts" does not request specific relief from the Court. Further, even if it did request specific relief, as noted in the

Order entered on May 7, and restated herein, this Court is without jurisdiction to hear plaintiff's claims.

Finally, the plaintiff has filed two documents entitled "Appeal" Both were filed within the sixty-day period for noting an appeal. The Court construes each of these pleadings as a notice of appeal of the Court's dismissal of this matter. The Court DIRECTS the Clerk to process the pleadings accordingly.

It is so ORDERED.

Let the Clerk send a copy of this Order to all counsel of Record and to Mr. Everett who is proceeding Pro Se.

July 14, 1999
DATE

Richard L. Williams
SENIOR UNITED STATES
DISTRICT JUDGE

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 99-1849

JOHNNY R. EVERETT SR.,

Plaintiff – Appellant,

Versus

DEPARTMENT OF VETERANS' AFFAIRS,

Defendant – Appellee.

Appeal from the United States District Court for the Eastern District of Virginia, at Richmond. Richard L. Williams, Senior District Judge. (CA-98-754-3)

Submitted: September 30, 1999 Decided: October 6, 1999

Before NIEMEYER, WILLIAMS, And MICHAEL, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Johnny R. Everett Sr. Appellant Pro Se. Debra Jean Prilliman, Assistant United States Attorney, Joan Elizabeth Evans, Assistant United States Attorney, Richmond, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit. See Local Rule 36 (c).

PER CURIAM:

Johnny R. Everett Sr. appeals the district court's order dismissing his civil action. We have reviewed the record and the district court's opinion and find no reversible error. Accordingly, we affirm on the reasoning of the district court. See Everett v. Department of Veterans' Affairs, No. CA-98-754-3 (E.D. Va. May 7, 1999). We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

AFFIRMED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

FILED
February 1, 2000

No. 99-1849
CA-98-754-3

JOHNNY R. EVERETT SR.

Plaintiff – Appellant

V.

DEPARTMENT OF VETERANS AFFAIRS

Defendant – Appellee

ORDER

Appellant has filed a petition for rehearing.

The Court denies the petition for rehearing.

For the Court,

/s/ Patricia S. Connor
CLERK

UNITED STATES COURT FOR APPEALS
FOR THE FOURTH CIRCUIT

Filed
February 9, 2000

No. 99 – 1849
CA-98-754-3

Everett V. Dept. Veterans' Affrs.

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MANDATE

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The judgment of this court dated 10/6/99 takes effect today.

PATRICIA S. CONNOR
CLERK